

R E M A R K S

- Claims **1-14 and 33** are currently pending;
- Claims **1-14 and 33** stand rejected;
- Claims **1-14 and 33** are in condition for allowance.

1. Claim Rejections – Section 102(b)

Claims **1, 2, 5-8 10, 13 and 33** stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,655,961 to Acres et al. ("Acres" herein).

Specifically, the Examiner asserted that "Acres et al. teaches a method comprising: determining a first time; determining a second time; and providing, based on the first time matching the second time, entry into a bonus game of a gaming device [column 25, line 38 – column 26, line 24] wherein at least one attribute of the bonus game is different than the at least one attribute otherwise would be if entry to the bonus game was not provided based on the first time matching the second time [column 25, line 38 – column 26, line 24]. A bonus game is interpreted as a game in which enhanced bonus payouts are outputted. The mystery jackpot and bonus time jackpot have different attributes." (Office Action, page 2).

Applicants respectfully traverse this rejection for the reasons set forth below.

It is well settled that, as stated at MPEP §2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal*

Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicants assert that Acres does not teach or suggest the following feature of claim 1:

- *providing, based on the first time matching the second time, entry into a bonus game of a gaming device wherein at least one attribute of the bonus game is different than the at least one attribute otherwise would be if entry to the bonus game was not provided based on the first time matching the second time.*

At the Examiner's citation, Acres states the following:

Table 2--Reconfiguration Data Structure

1. Bonus Type
2. Mystery Jackpot Data:
 - A. Number of coins to award
 - B. Number of seconds to award
 - C. Pay award to
3. Bonus Time Data
 - A. Jackpot Multiplier
 - B. Jackpot Payout Limitations
 - C. Number of Seconds to Keep Bonus Time Active
 - D. Minimum Activity Level

The bonus type field of the data structure indicates the type of bonus state the machine is to be placed in. Examples of potential bonus modes include progressive/nonprogressive, multiple jackpot, or mystery jackpot. If the mystery jackpot is indicated, the mystery jackpot data included in the structure specifies the conditions under which the mystery jackpot is paid out. The mystery jackpot can be set to payout, e.g., after a

certain number of coins in, handle pulls, which is specified by subfields of the mystery jackpot data.

The bonus time jackpot is a promotion wherein the machine pays out more than that dictated by its default payout schedule. In one embodiment of the bonus time promotion, the payout schedule of the machine can be modified to be a multiple of its default to payout schedule, as specified in subfield (A) of the bonus time data. This promotion can be used to encourage gaming activity during off-peak hours, e.g., midnight to 4 a.m. on weeknights.

Applicants respectfully assert that the Examiner is incorrect when interpreting the teachings of Acres. First, it appears that the Examiner is asserting that entry into the bonus time jackpot promotion is based on a first time matching a second time and, also, that the mystery jackpot and bonus time jackpot have different attributes. Assuming, *arguendo*, this to be true, it is most assuredly the case that the only thing that is entered based upon the first time matching the second time is the bonus time jackpot promotion. As a result, it is of no relevance to compare the bonus time jackpot to the mystery jackpot because, according to claim 1, whatever entry is provided to (i.e., the bonus game) such provision is either based upon the first time matching a second time or *was not provided based on the first time matching the second time*. As is evident, the mystery jackpot cannot be so entered.

Applicants do note that, once again, assuming, *arguendo*, that entry to the bonus time jackpot can be provided *based on the first time matching the second time* it is also possible to enter the bonus time jackpot promotion based on other things. However, there is no teaching in Acres that any attribute of the bonus time jackpot promotion differs based upon the manner in which it was entered.

Lastly, Applicants note that the above considerations are largely mooted by the fact that neither entry into the bonus time jackpot or the mystery jackpot is entry into *a bonus game* as claimed. Rather, as Acres makes clear, each type of jackpot is merely a “type of bonus state the machine is to be placed in”. As such, entry into either jackpot state is not entry into *a bonus game* as claimed.

For all of these reasons, claim **1** is in condition for allowance. As all of claims **2, 5-8 10, 13 and 33** depend upon claim **1** and incorporate all of the elements and limitations of claim **1**, claims **2, 5-8 10, 13 and 33** are likewise in condition for allowance.

2. Claim Rejections – Section 103(a)

Claims **3, 4, 8, 9, 11, 12 and 14** stand rejected under 35 U.S.C. §103(a) as being unpatentable over Acres.

Applicants note that, as all of claims **3, 4, 8, 9, 11, 12 and 14** depend upon claim **1** and incorporate all of the elements and limitations of claim **1**, claims **3, 4, 8, 9, 11, 12 and 14** are likewise in condition in allowance.

C O N C L U S I O N

For the foregoing reasons it is submitted that all of claims **1-14 and 33** are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Jeffrey Ambroziak at telephone number (203) 461-7317 or via electronic mail at jambroziak@walkerdigital.com.

Applicants believe that no fee for an extension of time is due at this time. However, if any additional fee should be necessary for the present Application at this time (or any time during the prosecution of the present Application), please charge any such required fee to our Deposit Account No. 50-0271. Please credit any overpayment to Deposit Account No. 50-0271.

Respectfully submitted,

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